


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 11]	नई दिल्ली, शुक्रवार, दिसम्बर 3, 2004/ अग्रहायण 12, 1926
No. 11]	NEW DELHI, FRIDAY, DECEMBER 3, 2004/ AGRAHAYANA 12, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 3rd December, 2004:—

I

BILL No. XXXV OF 2004

A Bill to provide for the conditions of service such as minimum wages, holidays, hours of work, etc. for the housemaids and domestic servants so as to eliminate their exploitation by their employers and for the welfare measures to be undertaken by their employers and the state and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Housemaids and Domestic Servants (Conditions of Service and Welfare) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "domestic servant" means any person who earns his livelihood by working in the household of his employer and doing household chores;

(c) "employer" means any person or family who employs housemaid or domestic servant as the case may be, for doing their household chores;

(d) "housemaid" means a woman servant who performs household chores for wages;

(e) "prescribed" means prescribed by rules made under this Act.

Compulsory registration of housemaids and domestic servants.

3. (1) Notwithstanding anything contained in any other law for the time being in force the appropriate Government shall compulsorily register the housemaids and domestic servants within their territorial jurisdiction after getting their character and antecedents verified with such details and in such manner as may be prescribed.

(2) For the purposes of sub-Section (1), the appropriate Government shall:—

(a) appoint such persons, being officers of the Government as registering officers for registration of housemaids and domestic servants under this Act; and

(b) define the limits within which a registering officer shall exercise the power conferred on him under this Act.

Prohibition of employing unregistered housemaids and domestic servants.

4. Notwithstanding anything contained in any other law for the time being in force, no employer shall employ any unregistered housemaid or domestic servant, as the case may be, for the household chores.

Wage rates and other conditions of service.

5. The wage rates, holidays, hours of work and other conditions of service of a housemaid or domestic servant, as the case may be, shall be such as may be prescribed by the appropriate Government, from time to time.

Other facilities.

6. It shall be the duty of the appropriate Government to ensure:—

(a) regular employment to the housemaids and domestic servants;

(b) regular payment of wages;

(c) suitable and conducive conditions of work;

(d) provision for prescribed medical facilities free of charge and also maternity facilities to the housemaid with full wages to be paid by the employer;

(e) provision for protective clothing as may be prescribed;

(f) that housemaid or domestic servant, as the case may be, is not tortured by the employer or physically or sexually exploited by the employer or any of his family member;

(g) provision for such other facilities as may be prescribed from time to time.

Welfare measures.

7. The appropriate Government shall initiate such welfare measures for the housemaids and domestic servants as it may deem necessary for the purposes of this Act.

8. Whoever:—

Penalty.

(a) contravenes the provisions of section 4 or section 6 except para (f) thereof, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both;

(b) contravenes the provisions of para (f) of section 6, notwithstanding anything contained in the Indian Penal code, shall be punishable with imprisonment which shall not be less than five years but may extend to ten years and also with fine which may extend to one lakh rupees.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or agreement whether made before or after the commencement of this Act:

Act to have overriding effect.

Provided that where under any such law or agreement the housemaids or the domestic servants, as the case may be, are entitled to get benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the housemaids shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they received benefits in respect of other matters under this Act.

10. The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In the metropolitans and urban areas of our country lakhs of poor women and girls earn their livelihood working in houses as housemaids who clean utensils, mop floor, perform such jobs as dusting, washing, etc., look after the babies, purchase vegetables, milk and households items from the market for their employers. They start their work early in the morning and generally work in two shifts, morning and evening, daily, without any leave. Despite their hard work they are paid meagerly by the household employers. If due to illness or some other urgency the housemaids do not attend their work for a few days their wages are deducted and many a time verbally fired from the job. In many cases, the housemaids are sexually harassed in the households but they have no other option but to work for earning their livelihood.

Similar is the plight of domestic servants who are engaged full time by their employers on meager wages. They work ten to twelve hours daily but often they are maltreated and insulted. Due to unfavourable working conditions many a time the domestic servants kill the employer and his family members or commit theft in his household. In some cases anti-social elements also enter households in the garb of domestic servants and disappear after committing theft in the households and in many cases killing the entire family. If only registered housemaids and domestic servants will be hired by households this menace can be minimized substantially. At the same time, it is also necessary to have deterrent provisions in the law so that the poor housemaids or domestic servants are not exploited.

This Bill seeks to achieve the above objects.

PREMA CARIAPPA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of registering Officers for housemaids and domestic servants. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five crores will be involved as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL NO. XXXVI OF 2004

A Bill to provide for the total ban on the publication of vulgar and obscene advertisements depicting nudity and surrogate advertisements showing substitutes of products, particularly of liquor and tobacco products by magazines, newspapers, etc. and telecasting of vulgar, obscene, nude and surrogate advertisements and remix songs containing nudity by television channels so as to protect the Indian culture and values and save the children and younger generation from being spoilt by vulgarity and nudity and for providing deterrent punishment for the defaulters and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Publication or Telecast of Vulgar, Obscene and Surrogate Advertisements and Re-mix Songs by Print and Electronic Media Act, 2004.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "advertisement" means giving publicity to increase the sale of products or brands by the manufacturers, or retailers through the electronic or print media;

(b) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "surrogate advertisement" means an advertisement which shows a substitute product in the guise of the real one which otherwise cannot be legally advertised through the print and electronic media;

(e) "vulgar" means rude, the obscene picture of a woman or actions or dance by nude or semi-nude woman in the song sequence, which is offending, and cannot be viewed with the family members.

(f) words and expressions used but not defined in this Act but defined in the Cinematograph Act, 1952 and the Cable Television Network (Regulation) Act, 1995 shall have the same meanings respectively assigned to them in those Acts.

37 of 1952
7 of 1995

Prohibition of publication or telecast of vulgar, and surrogate advertisements and re-mix songs by print and electronic media.

3. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) The publication of vulgar, obscene and surrogate advertisements by the print media such as newspapers, magazines, hoardings, banners; and

(b) the telecast of vulgar, obscene and surrogate advertisements and re-mix songs depicting vulgarity or nudity;

is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Appropriate Government to enforce strict compliance of the provisions of Act.

4. It shall be the duty of the appropriate Government to enforce strict compliance of the provisions of this Act through such agencies and in such manner as may be prescribed.

Penalty.

5. Whoever contravenes the provisions of section 3 shall be punishable with imprisonment for a term that shall not be less than five years but may extend to ten years and with fine which shall not be less than three lakh rupees but may extend to seven lakh rupees.

Offence by Company.

6. Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in-charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences to be cognizable and non bailable.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence punishable under this Act shall be cognizable and non bailable.

2 of 1974

Act to have overriding effect.

8. The provision of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

STATEMENT OF OBJECTS AND REASONS

These days the magazines and newspapers are full of advertisements of various products which are meant to increase the sale of these products. Most of these advertisements carry the pictures of girls and women with minimum of clothes shown in the most vulgar way. Many of these are nude, topless or semi-nude photographs of women and in fact the body of woman in the advertisements has nothing to do with the product. Television channels telecaste similar advertisements exhibiting semi-nude or nude girls and women. The models in such advertisements move and act in such vulgar ways that one cannot view them with family, particularly with children and younger generation.

As per the Government policy liquor and tobacco products advertisements are not allowed in print and electronic media. But manufacturers of these harmful products have found the route through surrogate advertisements. Particular brands of liquor are advertised in the garb of mineral water or soda etc. These advertisements also carry vulgar movements of female models. Of late the TV channels are showing re-mix songs. The popular songs of old Hindi movies are put again in re-mix form and cassettes and Albums are being sold in the market which are also being shown by TV channels. These re-mix songs have crossed all limits of vulgarity, nudity and obscenity and, unfortunately, there is no check on these re-mix song albums and cassettes.

The exposure of the society to the obscenity, nudity and vulgarity is tarnishing our culture and is crossing limits of decency. Its poisonous effect is visible in the society in the form of increasing graph of rapes, eve teasing, murders and other crimes against women. The time is ripe to put a total ban on such advertisements in the larger interest of the society and save the Indian culture and values of decency of this great country.

Hence this Bill.

PREMA CARIAPPA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

III

BILL No. XXXVIII OF 2004

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2004.

(2) It shall come into force with immediate effect.

2. In the Eighth Schedule to the Constitution existing entries 9 to 22 shall be renumbered as entries 10 to 23 respectively and before entry 10 as so renumbered the following entry shall be inserted, namely:—

"9 Kodava."

Short title and
commencement.

Amendment
of Eighth
Schedule.

STATEMENT OF OBJECTS AND REASONS

Most of the people love their native language and feel proud in communicating in that language. Naturally they would like that their language be promoted and in a multilingual country like ours their language too be given constitutional recognition like the other languages which have got this recognition by finding a place in the Eighth Schedule to the Constitution. One such language seeking Constitutional recognition is "Kodava" language of Kodagu region of Karnataka. There has been a long-standing demand from the Kodavas to include their native language in the Eighth Schedule to the Constitution. Kodava language has a great heritage and history which is widely spoken in the Kodagu region from where great soldiers of our nation like Field Marshal Cariappa and General Thimmaiah hailed and who grew speaking Kodava language. The State Government of Karnataka has also passed resolutions in the past recommending inclusion of Kodava language in the Eighth Schedule to the Constitution. The inclusion of Kodava language in the Eighth Schedule will not only fulfil the aspiration of the people but will also give it its due place in the Constitution.

Hence this Bill.

PREMA CARIAPPA

IV

BILL NO. XLI OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2004.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 16, of the Constitution, the following article shall be inserted, namely:—

"16A. Every able bodied citizen who has attained eighteen years of age shall have the right to get minimum one hundred days employment in a calendar year with such wages as may be prescribed and in the event of failure of the State to provide any employment he shall be provided with an unemployment allowance at such rate for the same period as may be prescribed by law."

Short title
and
commence-
ment.

Insertion of
new article
16A.

Right to work.

STATEMENT OF OBJECTS AND REASONS

No society can really be a democratic society till all its citizens are entitled to live with dignity. Food is the basic necessity for living. The society, where this basic necessity is not fulfilled, cannot be termed as a welfare democratic state. Economic democracy is more necessary than political democracy. Our Constitution proclaims the right of having adequate means to earn livelihood for all citizens. But the right of livelihood is not secured by citizens in our country as a fundamental right so far. This Bill recognizes the right to work as a fundamental right so as to ensure at least 100 days work in a year for every citizen.

Hence this Bill.

SARLA MAHESHWARI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that every able-bodied citizen who has attained eighteen years of age shall be provided right to get minimum one hundred days employment in a calendar year with such wages as may be prescribed and in event of failure of the State to provide any employment, he shall be provided with an unemployment allowance at such rate for same period.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees ten thousand crore per annum is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

V

BILL NO. XLII OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This may be called the Constitution (Amendment) Act, 2004.
2. After article 16 of the Constitution, the following article shall be inserted, namely:—

"(16A.) Nothing in this Constitution shall prevent the State from making any provision in the matter of employment in favour of persons belonging to Scheduled Castes and Scheduled Tribes in private enterprises.

Explanation:—In this article,—(i) 'private enterprise' means any private enterprise or organization whose annual turnover is not less than rupees ten crore per annum.

(ii) 'provision' includes any incentive which may be given to a private enterprise by the State to encourage them to employ persons belonging to Scheduled Castes and Scheduled Tribes."

Short title.

Insertion of
new article 16A.

Employment
opportunities
to persons
belonging to
Scheduled
Castes and
Scheduled
Tribes in
private
enterprises.

STATEMENT OF OBJECTS AND REASONS

The basis of any democratic society is to guarantee equal opportunities to all its citizens. Therefore, while accepting the principle of equal opportunities for all, our Constitution adds that the state will not hesitate to make special provisions for the upliftment of the citizens of certain classes that are socially and educationally backward or Scheduled Castes and Scheduled Tribes. The provision of reservation for Scheduled Castes and Scheduled Tribes in government services has been made keeping this object in view. But the way privatization is taking place now a days and the employment opportunities in government sector are decreasing, it has become necessary to provide for reservation in jobs for these sections of the society in private enterprises too. Private institutions are also socially liable to these weaker sections of the society. This amendment in the Constitution is required in order to make the private sector institutions fulfil this obligation.

Hence this Bill.

SARLA MAHESHWARI

VI

BILL NO. XLVI OF 2003

A Bill further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title
and
Commence-
ment.

1. (1) This Act may be called the Recovery of Debts Due to Banks and Financial Institutions (Second Amendment) Act, 2003.

(2) It shall come into force immediately.

Amendment
of Section 5
of Act 51 of
1993.

2. In section 5 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for the words "a District Judge" the words "a Judge of a High Court" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Section 5 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 provides that a person who is or has been or is qualified to be a District Judge shall be appointed as the Presiding Officer of a Tribunal. Since the Tribunal is vested with vast powers to adjudicate debts due to banks and financial institutions. It is proposed to appoint a person who is or has been or is qualified to be a Judge of a High Court as presiding officer.

Hence this Bill.

K.B. KRISHNAMURTHY

VII

BILL NO. LXVIII OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title and
Commencement

1. (1) This Act may be called the Constitution (Amendment) Act, 2003.

(2) It shall come into force at once.

Amendment
of article 198.

2. In article 198 of the Constitution, for clauses (2) to (5), the following clause shall be substituted namely:—

"(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be laid on the Table of the Legislative Council and thereupon, it shall be deemed to have been passed by both the Houses.

STATEMENT OF OBJECTS AND REASONS

In the Constitution, special procedure has been prescribed in respect of Money Bills wherein Money Bill shall not be introduced in the Legislative Council and after it has been passed by Legislative Assembly it shall be deemed to have been passed by both the Houses if the Council fails to return it after the expiration of fourteen days. Therefore, it is sought to amend the Constitution and provide that the moment a Money Bill is laid on the Table of the Legislative Council, it shall be deemed to have been passed by the Legislative Council. This will avoid delay in giving effect to the provisions of the Money Bill.

Hence this Bill.

K.B. KRISHNAMURTHY

VIII

BILL NO. XL OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2004.
- (2) It shall come into force at once.

Omission of
article 220.

2. Article 220 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

At present, a person who has held the office as permanent Judge of a High Court is permitted to plead or appear in any case before the Supreme Court or any other High Court after his retirement. This provision should be deleted as it would directly or indirectly influence the Judges of the Supreme Court or other High Courts because of the association or contact that person was maintaining while he was holding the office of the Judge of a High Court. Therefore, in order to ensure that fair justice is available to all citizens and to avoid people looking at retired High Court Judges with suspicion when they are appearing before the Supreme Court or any other High Court, it is necessary to prohibit any person who was previously holding the office of the High Court Judge to plead or appear before the Supreme Court or any other High Court.

Hence this Bill.

K.B. KRISHNAMURTHY

IX

BILL NO. IV OF 2004

A Bill further to amend the Prevention of Cruelty to Animals Act, 1960.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title
and
commence-
ment.

2004. 1. (1) This Act may be called the Prevention of Cruelty to Animals (Amendment) Act,

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amendment
of Section 38
of Act 59 of
1960.

2. In section 38 of the Prevention of Cruelty to Animals Act, 1960, in sub-section (2) after clause (eb), the following clause shall be inserted, namely:—

"(ec) the number of animals to be transported in proportionate to the capacity of vehicles being used for transporting animals, without causing any injury."

STATEMENT OF OBJECTS AND REASONS

Our Parliament had enacted a law in the year 1960 for checking the cruel and ruthless treatment meted out to animals. In pursuance to that, some norms were laid down for transporting animals from one place to another without hurting them. At the time of enactment of above law, the capacity and power of vehicles used for transporting was limited. Now technology has changed. Vehicles with more loading capacity are available in the market. But the number of animals such as sheep, goats, cocks, etc., which can be transported, has been restricted under the above law. Animals such as cow, buffaloes, bulls, etc. are transported to fairs. The number of animals to be transported even in big trucks is also limited and that is the reason why vehicle owners also suffer economic loss. As the provision of the above Act has become obsolete, it is necessary to change it with the times. Amendment is required in the above Act for permitting the transportation of animals as per the capacity of the vehicles.

Hence this Bill.

ABU ASIM AZMI

MEMORANDUM REGARDING DELEGATED LEGISLATION

The proposed amendment in the Bill empowers the Central Government to make rules for transportation of animals in vehicles. The rules will relate to matters of details only.

The delegation of Legislative power is of normal character.

X**BILL NO. X OF 2004**

A Bill to protect the interests of farming community by way of introducing compulsory market intervention and certain other means to enable the farmers get remunerative prices for their bumper agriculture produce and are not forced to go for distress sale of such produce and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Distress Sale of Agricultural Produce By Farmers Through Compulsory Market Intervention and Other Means Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) "agricultural produce" include wheat, paddy, coarse cereals, pulses, sugarcane, cotton, oilseeds, vegetables and in particular potato and onion, jute and such other agricultural or horticulture produce used for human consumption or for medicinal purposes;

(b) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(c) "farmer" means a person who owns land and cultivates thereon for agricultural or horticulture purposes;

(d) "prescribed" means prescribed by rules made under this Act.

3. (i) Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the appropriate Government to consistently monitor the trends of production of agricultural produce right from the beginning of the sowing season of every crop.

Appropriate Government to monitor production trend of crop.

(ii) While monitoring the trends of production if the appropriate Government is of the view that there may be a bumper crop of any agricultural produce it shall take the following measures,—

(a) estimate the likely production of the agricultural produce;

(b) assess the need for local consumption both of the households and the industry;

(c) assess the quantities likely to be purchased by Governmental agencies;

(d) assess the surplus, if any;

(e) in case of surplus, identify the areas or States where the produce is likely could be consumed and the produce could be rushed in such areas;

(f) make transportation arrangements at subsidised rates in such manner as may be prescribed;

(g) make necessary marketing and yard facilities for the farmers;

(h) such other measures as the appropriate government may deem necessary.

4. It shall be the duty of the appropriate Government to ensure that farmer does not resort to distress sale of his agricultural produce and to prevent such distress sale shall take such steps as it may deem necessary.

Prevention of distress sale of agricultural produce by farmer.

5. (i) Notwithstanding anything contained in any policy or any other law for the time being in force, the Central Government shall compulsorily extend market intervention through appropriate agencies wherever there is bumper crop of any agricultural produce.

Compulsory market intervention.

(ii) Wherever market intervention has been extended it shall be the duty of the local Government agencies to purchase the entire quantity of the agricultural produce offered to it by the farmer on minimum Support Price of the produce announced by the Central Government.

6. Wherever a factory is using any agricultural produce as raw material for its production it shall, notwithstanding anything contrary contained in any other law for the time being in force, clear all the dues of the farmer in respect of the agricultural produce so purchased from him within two weeks of the purchase of such agricultural produce failing which the appropriate Government shall confiscate the factory in such manner as may be prescribed so as to clear the dues of farmers by selling or auctioning such factory or through any other mode as the appropriate Government may deem fit and necessary for the purpose.

Special provision in respect of a factory using agricultural produce as raw material.

Central
Government
to provide
funds.

7. The Central Government shall provide, after due appropriation made by law by Parliament, necessary funds for the purposes of this Act from time to time.

Overriding
effect of the
Act.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our country, farmers not only constitute majority of the population but they are, in fact, the backbone of our economy which mainly depends on the good harvest yielded by the farmer. It is also true that the farmer himself depends on the good yield of his crop. But, unfortunately when the farmer grows bumper crop instead of being rewarded he is ruined because there are no takers for his produce. In fact it is a usual phenomenon in many parts of the country that in the immediate post harvest period prices of agricultural produce nose dive and the farmer is left high and dry. The unscrupulous traders and middlemen knit such a web which forces the farmer to sell his produce at throwaway prices. Sometimes the prices offered are so low that the farmers does not even get the labour and transportation charges let alone the remunerative prices forcing the farmer to either burn or throw the produce. The country has frequently seen burning of sugarcane crop by farmers or dumping of potatoes, onions, tomatoes etc. on roadsides or rotting on the field itself. A farmer resorts to distress sale of crops like wheat, paddy, cotton and cash crops which breaks him to such extent that in many cases he even commits suicide. The Central Government extends market intervention scheme but that is done on the request of the concerned state and the procedure too consumes much of the precious time and by the time the scheme is extended, it is too late because the farmer by then loses both his crop and his hopes.

Since ours is a welfare state, it has become necessary for the state to come to the rescue of the hapless farmer who grows food for the entire nation. The State has to ensure that the farmer is not compelled to resort to distress sale of his produce. The market intervention has to be made compulsory to save the farmer.

Hence this Bill.

RAJ KUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the Central Government shall provide necessary funds for the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Though the exact money required cannot be estimated at this stage it is felt that rupees two hundred crore may be required as recurring expenditure per annum.

A sum of rupees five hundred crore may also involve as non-recurring expenditure to create necessary infrastructure, etc.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XI

BILL NO. VII OF 2004

A Bill to provide for the welfare measures to be undertaken by the State for the neglected, exploited and underprivileged children such as street and vagabond children, children born of pavement dwellers, sex workers, mentally challenged mothers, jail inmates, etc. by taking their custody, maintenance, upbringing, education and rehabilitation and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Neglected, Exploited and Underprivileged Children (Welfare) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

104 of 1956.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "brothel", "prostitution or sex worker" and "prostitution" shall have the meanings respectively assigned to them in the Immoral Traffic (Prevention) Act, 1956;

(c) "child" means a boy or girl who has not attained the age of ten years;

(d) "fit institution" means any institution found fit by the appropriate Government to receive and take care of a child entrusted to its care and protection as specified by the said Government;

(e) "pavement dweller" means a family living on pavements without having a roof over the head and subsisting on begging and other odd jobs;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "Special Home" means an institution established under Section 4 of this Act;

(h) "street children" means those children who do not live with their parents or guardians or run away children who spend their lives as vagabond generally languishing on pavements, hutments or slums subsisting on ragpicking, begging or petty crimes; and

(i) "woman jail inmate" means any woman undergoing jail term for more than five years and having no family to look after child.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall take custody of every child who is born of or accompanying a sex worker in a brothel, woman jail inmate or mentally challenged one in such manner as may be prescribed.

(2) Every child taken custody of under sub-section (1) shall be sent to special Home or fit Institution in such manner as may be prescribed.

4. (1) For the purposes of this Act, the appropriate Government shall establish and maintain such number of Special Homes as it may deem necessary.

(2) Where the appropriate Government is satisfied that any institution managed by a Non-Governmental Organization (NGO) is fit for the purposes of this Act, it may certify such institution as a fit institution for the reception of the children specified under Section 3 Sub-section (2) of this Act.

(3) Every special Home or institution of NGO certified under this Act shall provide the child with board and lodging, maintenance, facilities for education, vocational training, facilities for the development of his character and abilities and such other facilities as may be prescribed to ensure all round growth and development of his personality.

5. The Central Government shall, as soon as may be but not later than one year of the commencement of this Act, formulate a national policy for the overall welfare of the street children, children of pavement dwellers, vagabond children and underprivileged children which may *inter alia* provide for:—

(a) their withdrawal from their profession of rag picking or begging or petty crimes by providing suitable rehabilitation measures as may be prescribed;

(b) their board and lodging and other facilities wherever necessary;

(c) their free educational facilities, vocational training and facilities for developing character and abilities in such manner as may be prescribed;

(d) provision for their employment opportunities after they grew up and complete their education or vocational training;

(e) such other measures as may be felt necessary for the overall welfare of such children.

Definitions.

Custody of children in certain cases.

Establishment of special homes and recognition of non-Governmental institutions.

National policy for the street children and children of pavement dwellers.

Central Government to provide necessary funds.

6. The Central Government shall, after due appropriation made by Parliament by law from time to time, provide necessary funds for the purposes of this Act.

Penalty.

7. Whoever,—

(a) uses any child governed by the provisions of this Act for begging or causes any such child to beg shall be punishable with imprisonment which shall not be less than five years but may extend to seven years and also with fine which may extend to one lakh rupees.

(b) exploits any child governed by the provisions of this Act shall be punishable with imprisonment for a term which may extend to five years and also with fine which may extend to two lakh rupees.

(c) sexually exploits any child governed by the provisions of this Act shall be punishable with life imprisonment and also with a fine which shall not be less than one lakh rupees but may extend to five lakh rupees.

Act to have overriding effect.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable for the welfare of the children.

Power to make rules.

9. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are lakhs of neglected and under-privileged children in the metropolitan and other cities generally known as street children or vagabond or run away children who loiter and live in the streets or pavements and subsist on rag picking, begging or indulge in petty crimes like stealing, pickpocketing, gambling etc. These children are generally exploited by anti-social elements both physically and economically and unfortunately are not spared even by police in many cases. Such children become criminals when they grow up. The girl child in this category is generally sexually exploited and ultimately pushed in the flesh trade. Similar is the fate of children of the families living in pavements and slums or jhuggi-jhopri clusters. Similarly, there are lakhs of sex workers operating in the country. Despite their best efforts, thousands of children are born to them. Such children have to live in human surroundings of brothels and ultimately they become the part and parcel of brothels.

Children are also born to jail inmates or they at the time of their sentence already have children with them. Such children grow up in jails amongst the criminals and anti-social elements turning the innocent towards crime. Many a times, children are born to mentally challenged women and such hapless children languish in mental hospitals. The children are our future citizens. To make them good and responsible citizens, they must grow in proper atmosphere, get good education, care and facilities. Since ours is a welfare State, the Government must come forward to take care of neglected exploited and under-privileged children of the society and establish sufficient numbers of Special Homes and recognise NGO institutions for the purposes of this Bill in order to make such unfortunate children grow as good citizens so that the country can be proud of them.

Hence this Bill.

RAJ KUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Special Homes and recognition of Non-Governmental Institutions. Clause 6 provides that Central Government has to provide necessary funds for the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage, it is difficult to assess the quantum of funds likely to be involved but it is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees two hundred crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purpose of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XII**BILL NO. IX OF 2004**

A Bill to provide for the compensation and rehabilitation of the dependents of the victims of terrorist violence and those innocent victims of police firing by the State and for the establishment of a National Commission to monitor the implementation of such provisions and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Victims of Terrorism (Compensation and Rehabilitation) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "commission" means National Commission for Victims of Terrorism established under section 4;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act but defined in the Prevention of Terrorism Act, 2002 and the Code of Criminal Procedure, 1973 shall have the same meaning assigned to them in those Acts.

15 of 2002.
2 of 1974.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the next of kin of any innocent person killed by an act of terrorism or during police firing shall be paid by the appropriate Government:

(a) an ex-gratia grant of such amount not being less than two lakh rupees as may be prescribed;

(b) a monthly allowance at a rate not being less than two thousand rupees as may be prescribed:

Provided that where a person killed was the sole earning member of the family the appropriate Government shall provide appropriate employment to at least one eligible member of the family:

Provided further that where there is no eligible member of the family for immediate employment the appropriate Government shall provide free of cost education including technical education and other facilities to one member of the family of the victim and thereafter provide him with gainful employment in the manner as may be prescribed.

(2) Where the victim is permanently incapacitated the appropriate Government shall pay him:—

(a) an ex-gratia grant of not less than two lakh rupees; and

(b) a monthly allowance of not less than two thousand rupees.

(3) Where the victim has suffered grievous injury the appropriate Government shall pay him:—

(a) the full cost of medical treatment; and

(b) an ex-gratia grant of not less than fifty thousand rupees.

4. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as National Commission for the Victims of Terrorism with its headquarters at New Delhi and a branch each in the Capitals of States and Union Territories, to monitor the implementation of the provisions of this Act.

(2) The Commission shall consist of four members one of whom shall be the Chairperson who shall be appointed by the Central Government in consultation with the Vice-President of India, the Chief Justice of India, the Speaker, Lok Sabha and the Leaders of Opposition of the two Houses of Parliament for a term of four years from the date of appointment.

(3) The terms and conditions of the service of the Chairperson or the members shall be such as may be prescribed.

(4) The Commission shall formulate its own rules and procedure with the consent of the Central Government regarding its meetings and conduct of business at such meetings.

(5) The Commission shall have such Secretariat as may be prescribed.

Definitions.

Relief to the
kins of
persons killed
in terrorism
or police
firing.

Establishment
of the
National
Commission
for the
Victims of
Terrorism.

(6) Any aggrieved victim or kin of his family may approach the Commission for due implementation of the provisions of this Act and the orders of the Commission thereon shall be binding on the appropriate Government.

(7) The Commission may, on its own or otherwise give such directions to the Central Government for proper and timely implementation of the provisions of this Act as it may deem fit and appropriate and such directions shall be binding on the appropriate Government.

(8) The Commission shall prepare and submit to the Central Government an annual report on the implementation of this Act and the Central Government shall cause such annual report to be laid before each House of Parliament with action taken report thereon.

Central Government to provide necessary funds.

Overriding effect of the Act.

Power to make rules.

5. For the purposes of this Act, the Central Government shall provide adequate funds after due appropriation made by law by Parliament in this behalf from time to time.

6. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Thousands of people are killed, wounded and incapacitated in terrorist violence in various parts of the country. The victims who are innocent fall prey to the bullets of the terrorists, insurgents or by whatever name called or to the bombs exploded by them leaving behind their wailing families. Many of them are sole earning members of their families and with their death the dependent families are ruined without any fault of theirs. Similarly people lose their lives in police firing for one reason or the other. Many of the victims are permanently crippled for life. Thus terrorism is the cause of agony and sufferings for large number of innocent citizens and their families in the country.

Since it is the responsibility of the State to provide security to the life and property of its citizens, it has to owe responsibility to rehabilitate the victims and their families by paying compensation, allowance and provide employment wherever necessary. This will not only provide social security to the victims but also have impact on terrorism also.

Hence this Bill.

RAJ KUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the payment ex-gratia grant, allowance, etc. to the victims of terrorism. Clause 4 provides for the establishment of a Commission to implement the provisions of the Bill. The Bill if enacted and brought into force will involve expenditure from the Consolidated Fund of India. At this stage it is difficult to quantify the expenditure, nevertheless it may involve a sum of rupees six hundred crore from the Consolidated Fund of India as recurring expenditure per annum.

Non recurring expenditure to the tune of rupees ten crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIII**BILL NO. XI OF 2004***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2004.

Amendment
of article
217.

2. In article 217 of the Constitution, in clause (1), for the words "sixty-two years", the words "sixty-five years" shall be substituted.

Amendment
of article
224.

3. In article 224 of the Constitution, in clause (3), for the words "sixty-two years", the words "sixty-five years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Law Commission of India in its Fourteenth Report on Judicial Reforms had recommended that the retirement age of the High Court Judges be raised from sixty years to sixty-five years. After considering the recommendation, clause (1) of article 217 of the Constitution was last amended in 1963 which provided for raising the age of retirement of a High Court Judge from sixty years to sixty-two years. The age of retirement of a Judge of the Supreme Court remains at sixty-five years.

The High Courts and the Supreme Court of India constitute the Higher Judiciary in our country. It is important that Judges appointed to the High Courts continue to work in them until some of them are persuaded to become Judges of the Supreme Court. There is seen a tendency on the part of Judges of High Courts to seek elevation as quickly as possible to the highest Court so as to secure a longer tenure. This adversely affects the smooth functioning of the High Courts. The National Commission to Review the Working of the Constitution has recently recommended that the retirement age of the Judges of the High Courts be increased to sixty-five years. The recommendation needs to be implemented. In view of the above, it is proposed to increase the retirement age of the Judges of the High Courts from sixty-two to sixty-five years.

FALI S. NARIMAN

XIV**BILL No. XII OF 2004**

A Bill to provide for the constitution of judicial statistical authorities for collection and publication of judicial statistics and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

Short Title.

1. (1) This Act may be called the Judicial Statistics Act, 2004.

(2) It extends to the whole of India.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) "district authority" means the District Judicial Statistics Authority constituted under sub-section (1) of section 7;

(b) "National authority" means the National Judicial Statistics Authority established under sub-section (1) of section 3;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "state authority" means the State Judicial Statistics Authority constituted under sub-section (1) of section 5.

CHAPTER II

NATIONAL AUTHORITY FOR JUDICIAL STATISTICS

3. (1) The Central Government shall constitute a body called the National Authority for Judicial Statistics to exercise the powers and perform the functions conferred on it under this Act.

Constitution of National Judicial Statistics Authority.

(2) The National Authority shall consist of—

(a) the Chief Justice of India who shall be the Patron-in-Chief;

(b) a serving or a retired Judge of the Supreme Court to be nominated by the President in consultation with the Chief Justice of India who shall be the Executive Chairman;

(c) Presiding Officers of the Tribunals established under various Acts of Parliament;

(d) Registrar-General of the Supreme Court who shall be Member Secretary *Ex Officio*;

(e) Such number of other members possessing such experience and qualifications as may be prescribed by the Central Government.

4. (1) It shall be the duty of the National Authority to collect or cause to be collected statistics about the cases, appeals, petitions and other matters filed in the Supreme Court and in other Tribunals established under any Act of Parliament.

Duties of the National Authority.

(2) Without prejudice to the provisions of sub-section (1) the National Authority shall collect or cause to be collected the following facts and particulars, namely:—

(a) the legal nature of the dispute;

(b) outcome of dispute;

(c) in case of appeal whether the decision of the High Court was upheld or reversed;

(d) the names of the judges who heard them;

(e) the Act and the section under which the cause of action is invoked by the litigants;

(f) the number of hours taken;

(g) adjournments granted;

(h) the lawyers who appeared for the parties;

(i) interval between filing of cases and their hearing by the court;

(j) date of final disposal of the case;

- (k) time taken for delivery of judgements after conclusion of hearing; and
- (l) such other details as may be prescribed by the Central Government.

CHAPTER III

STATE AUTHORITY FOR JUDICIAL STATISTICS

Constitution
of State
Judicial
Statistics
Authority.

5. (1) Every State Government shall constitute for the purposes of this Act, a body for the State to be known as the (.....name of the State) Authority for Judicial Statistics to exercise the powers and perform the functions conferred on it under this Act.

(2) The State Authority shall consist of—

- (a) the Chief Justice of the High Court who shall be the Patron-in-Chief;
- (b) a serving or a retired Judge of the High Court to be nominated by the Governor in consultation with the Chief Justice of the High Court who shall be the Executive Chairman;
- (c) Presiding Officers of the Tribunals established under any Act of the State Legislature;
- (d) Registrar of the High Court who shall be Member Secretary *Ex Officio*; and
- (e) such number of other members possessing such experience and qualifications as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

Duties of the
State Authority.

6. (1) It shall be the duty of the State Authority to collect or cause to be collected statistics about the cases, appeals, petitions and other matters filed in the High Court and in other Tribunals established under any Act of the State Legislature.

(2) Without prejudice to the provisions of sub-section (1) the State Authority shall collect or cause to be collected the following facts and particulars, namely:—

- (a) the legal nature of the dispute;
- (b) outcome of dispute;
- (c) in case of appeal whether the decision of the lower Court was upheld or reversed;
- (d) the names of the judges who heard them;
- (e) the Act and the section under which the cause of action is invoked by the litigants;
- (f) the number of hours taken;
- (g) adjournments granted;
- (h) the lawyers who appeared for the parties;
- (i) interval between filing of cases and their hearing by the court;
- (j) date of final disposal of the case;
- (k) time taken for delivery of judgements after conclusion of hearings; and
- (l) such other details as may be prescribed by the State Government.

CHAPTER IV

DISTRICT AUTHORITY FOR JUDICIAL STATISTICS

7. (1) The State Government shall in consultation with the Chief Justice of the High Court constitute for the purposes of this Act a body for each district to be known as the (.....name of the District) Authority for Judicial Statistics to exercise the powers and perform the functions conferred on it under this Act.

Constitution
of District
Judicial
Statistics
Authority.

(2) The District Authority shall consist of—

- (a) the District Judge who shall be the Patron-in-Chief;
- (b) such number of other members possessing such experience and qualifications as may be prescribed by the State Government.

8. (1) It shall be the duty of the District Authority to collect or cause to be collected statistics about the cases, appeals, petitions and other matters filed in the District Court and in other courts subordinate to it.

Duties of the
District
Authority.

(2) Without prejudice to the provisions of sub-section (1) the District Authority shall collect or cause to be collected the following facts and particulars, namely:—

- (a) the legal nature of the dispute;
- (b) outcome of dispute;
- (c) in case of appeal whether the decision of the lower Court was upheld or reversed;
- (d) the names of the judges who heard them;
- (e) the Act and the section under which the cause of action is invoked by the litigants;
- (f) the number of hours taken;
- (g) adjournments granted;
- (h) the lawyers who appeared for the parties;
- (i) interval between filing of cases and their hearing by the court;
- (j) date of final disposal of the case;
- (k) time taken for delivery of judgments after conclusion of hearings; and
- (l) such other details as may be prescribed.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the National Authority, by way of grants, such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

Grants by the
Central
Government.

10. (1) The National Authority shall establish a fund to be called the National Judicial Statistics Fund and there shall be credited thereto:—

National
Judicial
Statistics
Fund.

- (a) all sums of money given as grants by the Central Government under section 9;
- (b) any grants or donations that may be made to the National Authority by any other person for the purposes of this Act; and
- (c) any amount received by the National Authority under the orders of any court or from any other source.

(2) The National Judicial Statistics Fund shall be applied for meeting,—

(a) the cost of collecting judicial statistics under this Act including grants made to State Authorities;

(b) the cost of services provided by any service provider for collecting statistics under this Act; and

(c) any other expenses which are required to be met by the National Authority.

11. (1) A State Authority shall establish a fund to be called the State Judicial Statistics Fund and there shall be credited thereto,—

(a) all sums of money paid to it or any grants made by the National Authority for the purposes of this Act;

(b) any grants or donations that may be made to the State Authority by the State Government or by any person for the purposes of this Act; and

(c) any other amount received by the State Authority from any other source.

(2) A State Judicial Statistics Fund shall be applied for meeting,—

(a) the cost of collecting judicial statistics under section 6;

(b) the cost of services provided by any service provider for collecting statistics under section 6; and

(c) any other expenses for collection of statistics under this Act which are required to be met by the State Authority.

12. (1) Every District Authority shall establish a fund to be called the District Judicial Statistics Fund and there shall be credited thereto,—

(a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this Act;

(b) any grants or donations that may be made to the District Authority by any person, with the prior approval of the State Authority, for the purposes of this Act; and

(c) any other amount received by the District Authority from any other sources.

(2) A District Judicial Statistics Fund shall be applied for meeting,—

(a) the cost of collecting judicial statistics under section 8; and

(b) any other expenses which are required to be met by the District Authority for collection of statistics under section 8.

13. (1) The National Authority, State Authority or the District Authority (hereinafter referred to in this section as 'the Authority'), as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act

State Judicial
Statistics
Fund.

District
Judicial
Statistics
Fund.

Accounts and
Audit.

shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually by the Authorities to the Central Government or the State Governments, as the case may be.

CHAPTER VI

JUDICIAL STATISTICS REPORTS

14. (1) The National Authority shall prepare an Annual National Judicial Statistics Report based on the statistics of cases, appeals, petitions and other matters referred to in sub-section (1) of section 4 collected during the previous year.

National
Judicial
Statistics
Report.

(2) The Report prepared under sub-section (1) shall—

(a) describe in detail the criminal, civil, constitutional and other business of the Supreme Court and other Tribunals referred to in sub-section (1) of section 3;

(b) provide a commentary on the trends revealed by the statistics;

(c) contain information about flow of cases; and

(d) contain such other matter as may be prescribed by the Central Government.

15. (1) Every State Authority shall prepare an Annual Judicial Statistics Report based on the statistics of cases, appeals, petitions and other matters referred to in sub-section (1) of section 6 collected during the previous year.

State Judicial
Statistics
Report.

(2) The Report prepared under sub-section (1) shall also contain a consolidated statement of statistics collected by the District Authorities under sub-section (1) of section 8 during the previous year.

(3) The report prepared under sub-section (1) shall—

(a) describe in detail the criminal, civil, constitutional and other business of the High Court and other Tribunals referred to in sub-section (1) of section 6 and the District and subordinate courts under sub-section (1) of section 8;

(b) provide a commentary on the trends revealed by such statistics;

(c) contain information about flow of cases; and

(d) contain such other matters as may be prescribed by State Government.

16. The Annual National Judicial Statistics Report and the Annual State Judicial Statistics Report shall be published before the reopening of the Supreme Court or the High Court as the case may be, after the summer vacation.

Publication of
Judicial
Statistics
Reports.

17. (1) The Central Government, in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.

Power of
Central
Government
to make
Rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the experience and qualifications of members under clause (e) of sub-section (2) of section 3;

Power of
State
Government
to make
Rules.

(b) other details which may be prescribed under clause (1) of sub-section (2) of section 4;

(c) other matters which a Report may contain under clause (d) of sub-section (2) of section 14; and

(d) any other matter which is to be or required to be prescribed.

18. (1) The State Government, in consultation with the Chief Justice of the High Court may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the experience and qualifications of members under clause (e) of sub-section (2) of section 5;

(b) other details which may be prescribed under clause (1) of sub-section (2) of section 6;

(c) the experience and qualifications of members under clause (b) of sub-section (2) of section 7;

(d) other details which may be prescribed under clause (1) of sub-section (2) of section 8;

(e) other matters which a Report may contain under clause (d) of sub-section (3) of section 15; and

(f) any other matter which is to be or required to be prescribed.

Laying
of
Rules.

19. (1) Every rule made under this Act by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and it, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule or regulation should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Economic reforms cannot succeed unless accompanied by legal and judicial reforms. Law reform has hitherto focused mainly on doctrinal research because of a lack of statistical data, which has hampered law reform agencies like the Law Commission from undertaking law-in-action studies. Pure doctrinal legal research cannot adequately respond to new economic challenges. With the globalization of the economy swift changes are needed in the legal and judicial sector to keep pace with new challenges.

Fortunately new means of collecting empirical data in the legal field are available with the advent of the information technology revolution. The availability of empirical data will help legal scholars to better assess the performance of our judicial institutions. It will also help legal researchers and the law reform agencies like the Law Commission to diagnose accurately the fault lines in the judicial and legal sector. Above all, it will make for greater transparency.

Design of judicial data base and making it available to the public in the form of an Annual Report will facilitate all the stake holders to understand the legal problems in proper perspective.

The practice of publishing Annual Judicial Statistics report is already in vogue in many countries. In the United Kingdom The Lord Chancellor publishes an Annual judicial Statistics Report. In the US all courts prepare and publish such reports.

Publication of an Annual Judicial Statistics Report will help the general public and other stake holders to assess the performance of the judicial institutions and suggest remedies for judicial backlog. It will go a long way towards demystifying the law and the administration of justice.

The Bill seeks to achieve the above objects.

FALI S. NARIMAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill enables the Central Government to constitute a body to be call the National Judicial Statistics Authority and it shall consists of the Chief Justice of India and some other Members. Clause 9 of the Bill empowers the Central Government to pay to the National Authority such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

The grants to be granted by the Government and all expenses incurred in connection with the administration of the National Judicial Statistics Authority will be met from the Consolidated Fund of India. The total budgetary requirement is estimated rupees ten crores. This includes sums which will be granted to the State Statistics Judicial Authorities.

The recurring expenditure of rupees fifteen lakhs is required for the conduct of meetings and for other supporting staff.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules to carry out the provisions of the proposed legislation. These rules would relate to the matters required to be dealt by the Central Government under the provisions of the Bill. Clause 18 of the Bill empowers the State Government to make rules to carry out the provisions of the proposed legislation. These rules would relate to matters which are required to be dealt by the State Government under the provisions of the Bill.

The matters in respect of which rules may be made by the Central Government and the State Government relates to matters of administrative detail and procedure. The delegated legislative power is therefore of a normal character.

XV

BILL NO. XXXIX OF 2004

A Bill to disentitle Members of Parliament from claiming allowances during the days on which proceedings of Parliament are adjourned due to disruptions caused by Members of Parliament either individually or collectively and for matters connected therewith.

Be it enacted in Parliament in the Fifty-Fifth Year of the Republic of India as follow:—

1. This Act may be called the Disruption of Proceedings of Parliament (Disentitlement of Allowances to Members) Act, 2004. Short Title.

2. Terms and phrases used but not defined in this Act and defined in the salaries, Allowances and Pension of Members of Parliament Act, 1954 shall have the meanings respectively assigned to their in that Act. Definition.

Disallowance
of allowances
in certain
cases.

3. Where the proceedings of either House of Parliament are disrupted by Members of Parliament either individually or collectively and the House has to be adjourned with or without transacting any business for the substantial part of the day, and the Speaker or the Chairman, as the case may be certifies to that effect, then notwithstanding anything contained in section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, no member shall be entitled to any allowance for the day so adjourned even if he has, on that day, signed the register referred to in the proviso to that section, and such adjournment shall not be taken into account for the purpose of calculating the period of residence on duty during that session. 30 of 1954.

Speaker or
Chairman to
Certify in
certain cases.

4. At the end of every session of Parliament, the Speaker or the Chairman as the case may be, shall certify the dates on which either House had to be adjourned due to disruption caused by Members of Parliament either individually or collectively.

STATEMENT OF OBJECTS AND REASONS

The office of Members of Parliament is a prestigious office and one of trust. Members of Parliament are representatives of the people and are responsible to them. Their attendance and participation in the proceedings of the House is a public duty. Accordingly, they must at all times be conscious of their responsibilities and endeavour to maintain the public trust reposed in them by performing their duties not only with honesty and integrity, but also with regularity; they must respect the Constitution and the conventions evolved thereunder, the rules of procedure and the conduct of business of Parliament and abide by the rulings of the presiding officers in each House.

Parliamentary democracy is based on the assumption that the Executive is accountable to Parliament and that Members of Parliament will exercise vigilant control over the actions of the Executive and hold the Executive accountable for its actions. This is the essence of good governance. Members of Parliament are expected to take keen interest in attending the sittings of Parliament with regularity and also to take active part in the deliberations of Parliament. Liberally, crores of rupees are spent in convening and holding Sessions of Parliament each year. If the proceedings of the either House is disrupted and the House is not permitted to function and transact the notified business of the day, adjournments become inevitable and vast amounts of public money are needlessly thrown away. Besides, actions of all branches of the Executive also escape vigilant legislative scrutiny due to valuable Parliamentary time being lost and wasted in adjournments. In order to arrest this tendency and to restore the credibility and prestige of each of the Houses of Parliament, it is proposed to disentitle sitting Members of Parliament from receiving any allowance during those days when Parliament has been adjourned due to disruptions caused by Members of Parliament either individually or collectively.

The Bill seeks to achieve the above object.

FALI S. NARIMAN

XVI

BILL No.XIV OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2004.

Amendment
of article
275.

2. In article 275 of the Constitution, in the clause (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenue of the State of Andhra Pradesh every year to the tune of rupees one hundred crore for developmental and infrastructural works."

STATEMENT OF OBJECTS AND REASONS

Andhra Pradesh is quite developed and is one of the States attracting foreign investments. However, due to non-availability of adequate funds for the development of infrastructure in some of the districts and villages in the States, promotion of tourism is not prospering with the desired pace. It is, therefore essential that Central Government provides sufficient funds by way of grants-in-aid for development of some of the backward districts in Andhra State.

Hence this Bill.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that a sum of rupees one hundred crore shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenue of the State of Andhra Pradesh per annum for developmental and infrastructural works.

This will involve recurring expenditure from the Consolidated Fund of India to the tune of rupees one hundred crore per annum. No non-recurring expenditure would be involved from the Consolidated Fund of India.

XVII

BILL NO. XIII OF 2004

A Bill further to amend the Prevention of Food Adulteration Act, 1954.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 2004.

(2) It shall come into force at once.

Amendment
of Section 2.

2. In section 2 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the principal Act), in clause (v) for the words "drink for human consumption other than drugs and water and includes", the words, "drink, including water, for human consumption other than drugs and includes—", shall be substituted. 37 of 1954.

Amendment of
Section 16.

3. In section 16 of the principal Act,—

(i) in sub-section (1)—

(a) for the words, "six months but which may extend to three years and with fine which shall not be less than one thousand rupees." The words "ten years but which may extend to fifteen years and with fine which shall not be less than five lakh rupees" shall be substituted.

(b) in the first proviso, for the words "three months but which may extend to two years, and with fine which shall not be less than five hundred rupees", the words "ten years but which may extend to fifteen years and with fine which shall not be less than five lakh rupees," shall be substituted.

(ii) in sub-section (1A),—

(a) for the words "one year but which may extend to six years and with fine which shall not be less than two thousand rupees", the words, "ten years but which may extend to fifteen years and with fine which shall not be less than five lakh rupees" shall be substituted;

(b) in the proviso, for the words "five thousand rupees", the words "five lakhs rupees", shall be substituted,

(iii) in sub-section (1B), for the words, "five thousand rupees" the words "five lakh rupees", shall be substituted,

(iv) in sub-section (1C), for the words "six months and with fine which shall not be less than five hundred rupees", the words "fifteen years and with fine which shall be less than two lakh and fifty thousand rupees", shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Recently, certain cases of fake and spurious mineral water sold in market came to notice when tested for quality. The quality of mineral water marketed by even some reputed and multinational companies were found to be sub-standard. Tests of these packaged drinking water brought to light that the samples contained pesticides far above the international norms. Consumption of sub-standard mineral water jeopardises the health of the consumers.

At present there is no adequate mechanism to check the quality and standard of packaged drinking water and mineral water. Ignorant consumers get cheated by reputation of these companies. The Prevention of Food Adulteration Act, 1954 specifically excludes "water" from the purview of the Act. When it was enacted in the year 1954, sale of water was not a common phenomenon. At present, sale of mineral water and packaged drinking water is a common feature in every nook and corner of the country and the companies engaged in this business earn huge profits by selling sub-standard water.

Hence, it is proposed to bring "water" within the purview of the Prevention of Food Adulteration Act, 1954.

Moreover, the existing provisions in the Act regarding penalties are inadequate. Therefore it is proposed to enhance penalties suitably so as to make them deterrent.

Hence this Bill.

T. SUBBARAMI REDDY

XVIII**BILL NO. XV OF 2004**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2004.

Short title.

2. In article 243 ZD of the Constitution, in clause (2), sub-clause (b), after the existing proviso, the following proviso shall be inserted, namely:—

Amendment
of article 243
ZD.

"Provided further that the Member of either House of Parliament and the Member of the State Legislative Assembly representing the Constituency in which the district or a major portion thereof falls shall also be nominated as member, with voting right, of such Committee."

Amendment
of article
243ZE.

3. In article 243ZE of the Constitution, in clause (2), sub-clause (b), after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that the Member of either House of Parliament and the Member of the State Legislative Assembly representing the Constituency in which the metropolitan area or a major portion thereof falls shall be nominated as member, with voting right, of such Committee."

STATEMENT OF OBJECTS AND REASONS

In every State there is provision for constitution of District Planning Committees and Metropolitan Planning Committees to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district and metropolitan area, respectively.

Though members of Parliament and the member of the State Legislative Assemblies can recommend plans and projects from local Area Development Fund, they are not nominated with voting rights to those Planning Committees. It would, therefore, be appropriate, if provision is made to nominate them to those Committees to enable them to contribute to the development plans intellectually and financially.

Hence this Bill.

T. SUBBARAMI REDDY

XIX**BILL NO. XIX OF 20004**

A Bill to provide for certain social security rights including right to strike of the Government employees and for matters connected therewith.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Government Employees (Social Security Rights) Act, 2004.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the Context otherwise,—

(a) "employee" includes an employee of the Central Government, State Government, Local Self Government, Public enterprises under the Central or State Governments;

(b) "social security" means protection of adequate means of livelihood including alteration of service condition of employees in any manner;

(c) words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 shall have the meaning respectively assigned to them in that Act. 14 of 1947.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any other instrument having effect by virtue of any law, rules, regulation etc. an employee may, on failure of demand in regard to social security before the Government or the employer, after giving due notice, go on strike.

Right to
strike of
employees.

(2) The right under sub-section (1) shall not be exercised within fourteen days of giving notice or before the expiry of the date of strike specified in such notice as aforesaid.

2 of 1974.

4. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of the offence punishable under this Act unless a complaint thereof is made within one month from the date on which the alleged commission occurred.

Cognizance
of offence.

5. Whoever contravenes the provision of giving prior notice under sub-section (2) of section 3 shall be punishable with imprisonment for a term not exceeding one month or with fine, which may extend to five hundred rupees or with both.

Penalty.

STATEMENT OF OBJECTS AND REASONS

Article 39(a) of the Constitution guarantees the right for an adequate means of livelihood. It has been brought to the notice of the Central Government that certain State Governments have indulged in drastic measures to suppress the legitimate rights of the Service Associations of the employees and thus depriving the very livelihood of the employees.

Such oppressive measures crushing the personality and denying the statutory right of Government servants and employees of local and other authorities under the control of the Government are to be curbed. As a social reformatory measure to protect the livelihood of the employees, the legislative measure is proposed.

The Bill seeks to achieve the above object.

R. SHUNMUGASUNDARAM

XX

BILL No. XXII OF 2004

A Bill to prohibit the sale and possession of shahtoosh shawl which is made from the wool of an endangered wild animal found in the Himalayas and for matters connected therewith.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Shahtoosh Shawl (Prevention of Sale and Possession) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. The sale and possession of Shahtoosh shawl is hereby prohibited.

Short title,
extent and
commence-
ment.

Prohibition
of sale and
possession of
shahtoosh
shawl.

Penalty.

3. Whoever contravenes the provisions of section 2 shall be punishable with imprisonment which may extend to one year or with fine which may extend to one lakh rupees or with both.

Offence to be cognizable and non bailable.

4. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offence under this Act shall be cognizable and non bailable. 2 of 1974.

Overriding effect of the Act.

5. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

The possession of and trade in Shahtoosh is an offence. The Central Government doesn't allow trade in Shahtoosh, but Jammu & Kashmir Government has been holding out since its craftsmen weave the shawls. According to the law, a Shahtoosh shawl can be possessed only after an ownership certificate is provided for it. So far no one in the country has been issued an ownership certificate for possession of a Shahtoosh shawl. The wildlife Act and the law governing Shahtoosh shawl therefore give a complex inference. So it is high time to enact new law to ban the sale and possession of Shahtoosh Shawl.

Hence this Bill.

SANTOSH BAGRODIA

XXI

BILL NO. XX OF 2004

A Bill to prohibit the arrest of an entrepreneur, businessman or any person merely on suspicion of having committed an economic offence without any clinching proof thereof and for matters connected therewith.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title
extent and
commencement

1. (1) This Act may be called the Economic Offences (Prevention of Arrest on Mere Suspicion) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Prohibition
of arrest on
suspicion
alone in
economic
offences.

2. Notwithstanding anything contained in any other law for the time being in force, no person shall be arrested by any authority on the basis of suspicion alone, who according to such authority might have committed any economic offence under any law for the time being in force.

3. Notwithstanding anything contained in any other law for the time being in force, no court shall grant remand to any authority for interrogating any person proposed to be proceeded against merely on suspicion of having committed an economic offence under any law for the time being in force.

Courts not to grant remand etc.

4. (1) Where sufficient evidence is available against any entrepreneur having committed any economic offence, a team of senior officers of the Police or of the enforcing agency, as the case may be, shall decide the desirability of taking such entrepreneur under detention.

Committee of senior officers to decide for arresting in case of sufficient evidence available.

(2) Where the Committee of officers referred to under sub-section (1) decides to arrest an entrepreneur on the basis of clinching evidence against him, such entrepreneur shall be provided with minimum basic necessities of day to day life and such Committee may also opt for house arrest of such entrepreneur.

STATEMENT OF OBJECTS AND REASONS

Today the world is changing very fast. The most important factor has become the survival of human being and to meet their minimum needs. Economic development is must. It is for this reason that globalisation has become important.

Our country has got very old unpractical laws including economic offence laws. As a result, there is unnecessary fear in the minds of the businessmen and industrialists that they will be put to serious problem for frivolous reasons.

Therefore, this has become necessary to enact a separate law that detention for economic offences should be an exception and not a rule. Any entrepreneur or businessman should not be arrested merely on suspicion of having committed an economic offence. This will help in increasing economic activities resulting in more employment and better law and order situation in the country. This law should supercede all other laws for economic offences. The power for issuing order for detention should be given to the committee of senior officers and only then in very exceptional cases it should be used if there is clinching evidence against the offender.

Even if detentions warranted with evidence we have to find out the ways to ensure that due to the detention the genuine economic activities are not affected in the interest of the development of the country. For this, the detention can be done as house arrest and most essential facilities like telephone etc. may be provided alongwith all the minimum necessities like food or his own choice at his own cost and hygenic facilities like clean toilet and sleeping area. This will give the desired relief to the entrepreneur and guarantee that he will not be implicated on suspicion alone.

Hence this Bill.

SANTOSH BAGRODIA

XXII

BILL No. XXI OF 2004

A Bill to protect the women and girls from domestic violence of various kinds including physical and mental violence by providing deterrent punishment for such violence and to help the victim woman or girl to move out from her house to a safer place and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Domestic Violence against Women and Girls Act, 2004.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "domestic violence" includes beating and such other physical torture, sexual

abuse, non providing of money for personal expenses, emotional blackmail, abusing and using foul language and psychological abuse of a woman or girl in the household;

(c) "perscribed" means prescribed by rules made under this Act;

(d) terms and phrases used but not defined in this Act but defined in the Indian Penal Code 1860 shall have the same meaning assigned to them in the said Act.

45 of 1860.

Prohibition
of domestic
violence
agaiaist
woman and
girl.

Penalty.

3. (1) Notwithstanding anything contained in any other law for the time being in force, domestic violence against any woman or girl, as the case may be, is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

4. Whoever—

(a) beats or inflicts physical torture of the nature of hurt on any woman or girl in the household shall, on conviction in a court of law, be punishable with imprisonment for a term which shall not be less than two years but may extend to five years and also with fine which may extend to ten thousand rupees;

(b) causes greivous hurt to any woman or girl in his house shall, on conviction in a court of law, be punishable with imprisonment which shall not be less than five years but which may extend to ten years and with fine which may extend to one lakh rupees;

(c) indulges in sexual violence against the woman or girl in his house notwithstanding his relation with such a woman or girl, as the case may be, and also sexually exploits the woman or girl shall, on conviction in court of law, be punishable with imprisonment for life;

(d) indulges in emotional blackmail or psychological abuse or abuses or uses foul language against any woman or girl in his house shall, on conviction in a court of law, be punishable with imprisonment which may extend to six months and with fine which may extend to twenty five thousand rupees.

Right of the
woman or girl
to move out
of house for
safety.

5. (1) The appropriate Government shall set up such number of short stay homes as it may deem necessary for the purposes of this Act.

(2) Any abused woman or girl, as the case may be, under this Act shall have the right to move out of her house with bag and baggage to a safer place or short stay home for her safety.

Appointment
of Special
Protection
Officers.

6. (1) For the purposes of this Act, the appropriate Government shall appoint such number of Special Protection Officers as it may deem necessary, in such manner as may be prescribed.

(2) The Special Protection Officer shall be responsible for,—

(i) assisting the abused woman or girl to remove her belongings from her house to a safe or short stay home set up under this Act;

(ii) coordinating the functioning of various Government and non Governmental Organisations providing medical, legal counselling and other services to the women and girls who are victims of domestic violence;

(iii) such other responsibilities as may be prescribed.

Savings.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) The appropriate Government may, by notification in the Official Gazette, make rules for giving effect to the provisions of sections 5(1) and 6 (1) of the Act.

STATEMENT OF OBJECTS AND REASONS

Domestic violence inflicted on women and girls over the years through heinous practices. Domestic violence in a family can be more than physical. It is increasingly taking a non-verbal form as well. Often it is simply a lack of concern, support and care for the women.

Though sections 498A and 304B of the IPC cover aspects of domestic violence, however, justice through these laws takes time and the woman is not immediately removed from potentially dangerous situation. Moreover, in cases where the violence is extreme and unbearable, judicial separation does not necessarily grant immediate safety. Most of the women who undergo such violence neither want divorce nor go to a criminal court complaining against such abuse which brings more harassment to the victim. It often ends up with more beatings and physical punishments. There is right now no remedy for domestic violence. So the Bill if implemented can certainly be effective.

Hence this Bill.

SANTOSH BAGRODIA

FINANCIAL MEMORANDUM

Clause 5 provides that appropriate Government shall set up such number of short stay homes for the purposes of this Act. Clause 6 provides for the appointment of Special Protection Officers. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of Rupees one hundred crore may involve as recurring expenditure per annum.

A sum of Rupees Two hundred crores may also involve as non recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill which will relate to matters of details only.

The delegation of legislative power is of normal character.

XXIII

BILL NO. XVII OF 2004

A Bill to provide for the equitable distribution of inter-State river water and for the removal of monopoly of any single state over inter-State river water and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called three Equitable Distribution of Inter-State River Water Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

33 of 1956.

(b) "prescribed" means prescribed by rules made under this Act;

(c) terms and phrases used but not defined in this Act and defined in the Inter-State Water Disputes Act, 1956 shall have the meanings respectively assigned to them in that Act.

3. Notwithstanding anything contained in any other law for the time being in force, the Union Government shall have exclusive rights and control over all inter-State rivers in the country and the present status of a State having exclusive right over an inter-State river or to its use is hereby abolished.

Exclusive right of the Union Government over all inter-State rivers.

4. (1) It shall be the duty of the Union Government to ensure equitable and need based distribution of water of every inter-state river amongst the States through which such an inter-State river passes.

Union Government to ensure equitable distribution of water from inter-State river.

(2) In order to implement the provisions of sub-section (1), the Union Government shall take into consideration:—

(a) the population and area of each State;

(b) land under cultivation in each State in the vicinity of the inter-State river which depends on such water for irrigation;

(c) requirement of drinking water of each beneficiary State met with the water of inter-State river; and

(d) such other factors as may be deemed necessary.

5. (1) Every beneficiary appropriate Government shall inform the Union Government about its requirement of water from the inter-State river for irrigation and drinking water purposes from time to time in such manner as may be prescribed.

State Governments to inform their water requirements to the Union Government.

(2) While indicating its requirement of water under sub-section (1) the appropriate Government shall also indicate the status of rainfall in the State in such manner as may be prescribed to enable the Union Government to assess the actual requirement of river water of such State.

6. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effect of the Act.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Our great nation has been blessed with many rivers, big and small, flowing through a number of States and ultimately merging into the sea. Unfortunately, major portion of these waters go waste in the sea despite the fact that there is severe water crisis in major parts of the country be it for drinking or other purposes like irrigation and generation of power etc. But at the same time, we find that inter-State rivers have been monopolized by certain States and very often such States deprive other States of the river waters which the States are justifiably eligible to get their due share leading to inter-State water disputes. As a result, many cases are pending in the Tribunals and even in the Supreme Court. These inter-State water disputes have resulted in strained relations amongst the States, enmity amongst the people of such States and many a time situation become very explosive.

Hence it has become necessary that inter-State rivers should be brought under the exclusive control of the Central Government which should ensure equal distribution of water of all the inter-State rivers amongst the concerned States as per their actual requirement.

Hence this Bill.

R. SARATH KUMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of Legislative power is of normal character.

XXIV

BILL NO. XVIII OF 2004.

A Bill further to amend the Salaries and Allowances of Officers of Parliament Act, 1953.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Salaries and Allowances of Officers of Parliament (Amendment) Act, 2004.

Short title
and
commence-
ment.

(2) It shall come into force at once.

2. In section 7A of the Salaries and Allowances of Officers of Parliament Act, 1953:—

Amendment
of section 7A
of Act 20 of
1953.

(a) For sub-section (1), the following sub-sections shall be substituted namely:—

(1) With effect from the commencement of the Salaries and Allowances of Officers of Parliament (Amendment) Act, 2004, there shall be paid to every person who ceases to hold office as Speaker of the Lok Sabha, either by the expiration of his term of office or by resignation of his office provided that in either case he has held that office for not less than three years, a pension at the rate of fifty per cent of the salary last drawn by him for the remainder of his life:

Pension to
Speaker and
family
pension etc.
to spouse of
Speaker.

Provided that such person shall not be entitled to receive any pension during the period he holds the office of the Prime Minister, a Minister or any other office (including that of the Speaker, Lok Sabha) or becomes a Member of Parliament and is in receipt of salary and allowances which are defrayed out of the Consolidated Fund of India or the Consolidated Fund of State.

(2) The spouse of a person who dies:—

(i) while holding the office of Speaker, Lok Sabha, or

(ii) after ceasing to hold the office of Speaker, Lok Sabha either by the expiration of his term or by resignation of his office provided that in either case he has held that office for not less than three years,

shall be paid a family pension at the rate of fifty per cent of the pension as would have been admissible to the Speaker himself on his death or retirement as the case may be.

(b) Sub-sections (2) and (3) shall be renumbered as sub-sections (3) and (4) respectively.

STATEMENT OF OBJECTS AND REASONS

The Salaries and Allowances of Officers of Parliament Act, 1953 was amended by Act 31 of 2002, effective from 03.03.2002, to provide for pension and other facilities to the spouse of the Speaker, Lok Sabha who dies in office. This situation is quite unusual as the retiring Speaker, Lok Sabha who holds an important office in Parliamentary Democracy has not been made eligible to pension otherwise admissible to a retiring Member of Parliament unlike the Vice-President. There is another anomaly as the spouse has been eligible to pension at the rate of fifty per cent of the salary drawn by the Speaker on his death. The general practice in this regard is that this percentage is normally payable to the holder of the office and the spouse is entitled to draw fifty per cent of the pension payable to the holder of the office. Similar provision has been made for the spouse of the Vice-President in the Vice-President's Pension Act 1997. It is, therefore, proposed to provide for pension to the retiring Speaker and his spouse as in the case of Vice-President.

Hence this Bill.

LALIT SURI.

FINANCIAL MEMORANDUM

The Bill if enacted will involve expenditure from the Consolidated Fund of India in respect of giving pension to retiring Speaker and the spouse in case of death of the Speaker. It is likely that it will involve a recurring expenditure of about 5 lakh rupees per year.

No non-recurring expenditure is likely to be involved.

XXV

BILL NO. XLVII OF 2004

A Bill further to amend the Constitution of India..

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2004.

Amendment of
article 153.

2. In article 153 of the Constitution, the proviso shall be omitted.

Amendment of
article 156.

3. In article 156 of the Constitution,—

(i) for clause (1), the following clause shall be substituted, namely:—

"(1) The Governor shall hold office for a term of five years from the date on which he enters upon his office".

(ii) for clause (3), the following clause shall be substituted, namely:—

"(3) The Governor may be removed in case of proven disability or delinquency in a manner as may be laid down by Parliament by law."

4. For article 157 of the Constitution the following article shall be substituted, namely:—

Substitution of
new article for
article 157.

"157. No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty five years but has not completed the age of sixty five years, is eligible for election to the House of People and the concerned State Government has approved the appointment.

Qualifications
for
appointment
as Governor.

Provided that no person shall be eligible for appointment as Governor for more than one term".

5. In article 158 of the Constitution clause (3A) shall be omitted.

Amendment
of article 158.

STATEMENT OF OBJECTS AND REASONS

The office of the Governor is one of the most important constitutional authorities. The Governor is head of the executive power of the State as the President is the head of the executive power of the Union. Whereas the President of the Union is elected through indirectly, the Governor of a State is appointed by the President and holds office at the pleasure of the President. The President of the Union is a constitutional head and acts on the advice of the Council of Ministers. In other words, both in the matter of appointment and removal of Governors, it is only the Government at the center that acts.

Originally the Constituent Assembly proposed to have elected Governors but later favoured the method of appointment by the President so as to avoid clash between the elected Governor and the Chief Minister as in the system of Parliamentary democracy, the real executive power is vested in the Council of Ministers headed by the Chief Minister.

The Constituent Assembly, however, did not lay down proper qualifications for appointment of Governors. Only two conditions have been laid down that the person should be an Indian citizen and has attained the age of 35 years. Thus, the appointment of Governors is the sole prerogative of the Central Government. The result has been, *inter-alia*, the appointment of persons defeated in elections or retired and old politicians, former bureaucrats and retired defence and police personnel. There have also been cases where a particular person is appointed a Governor time and again and posted as such in States. There have also been cases of differences between the Governor and the elected Government in the State, which might not have been consulted before the appointment of the Governor in that State.

The Constitution also does not lay down the grounds for the removal of the Governor by the President. Obviously, it was felt that in cases of gross delinquency such as bribery, corruption, treason and the like, the Governor could be removed by the President as he held office during the President's pleasure without following lengthy and cumbersome procedure for removal of President, Vice President, etc. through impeachment. But in real practice this provision has been misused on a number of occasions.

It is also not desirable that one person be made Governor of more than one State, which may at any time cause problems for the incumbent.

The Bill seeks to make appropriate changes in the Constitution.

Hence this Bill.

LALIT SURI

XXVI

BILL No. XXVIII OF 2004

A Bill to provide for the maintenance, rehabilitation and welfare of the destitute, poor and infirm citizens who are suffering from infirmity or disability due to old age, ailment, physical deformity or mental imbalance or who are destitute due to extreme poverty, by the State and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Destitute, Poor and Infirm Citizens (Maintenance, Rehabilitation and other Welfare Measures) Act, 2004.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “board” means National Rehabilitation and Welfare Board for the Destitute, Poor and Infirm Citizens established under section 4;

(c) “destitute” means a person who lives uncared for without resources of income generation and in dire need of food, shelter and medical care and maintains himself on begging or charity of others on footpath or other place not meant for residence;

(d) “family” includes spouse, dependent children or parents of a person;

(e) “infirm” means a person stricken with infirmity owing to old age, physical deformity, chronic ailment, or mental imbalance;

(f) “poor” means a person whose daily average earning does not exceed,—

(i) if living alone fifteen rupees;

(ii) if living with spouse who is not earning twenty rupees;

(iii) if living with family, per head income of the family members is less than five rupees;

(g) “prescribed” means prescribed by rules made under this Act.

Establishment of an exclusive Department for the welfare of destitute, infirm and poor by appropriate Government.

3. The appropriate Government shall, wherever applicable and as soon as may be, establish a separate Department to look after the destitute, infirm and poor citizens and prepare and implement rehabilitation and welfare plans for such citizens in such manner as may be prescribed.

Establishment of National Rehabilitation and Welfare Board for the Destitute, Poor and Infirm Citizens.

4. (1) The Central Government shall, by notification in the Official Gazette, establish a Board to be known as National Rehabilitation and Welfare Board for the Destitute, Poor and Infirm Citizens;

(2) The headquarters of the Board shall be at Jaipur in Rajasthan.

(3) The Board shall consist of:—

(a) the Prime Minister who shall be the *ex-officio* chairman of the Board;

(b) the Union Minister of Social Justice and Empowerment who shall be the Deputy Chairperson of the Board;

(c) one member each to represent the Union Ministry of Finance, Human Resource Development, Home Affairs, Urban Development, Tribal Affairs, Rural Development, Health and Family Welfare, Labour and Youth Affairs;

(d) one member from each State Government and Union Territory Administration;

(e) four members to be appointed by the Central Government to represent the Non Governmental Organisations working for the citizens covered under this Act; and

(f) four members of Parliament of whom two each shall be nominated by the respective Presiding Officers of Lok Sabha and Rajya Sabha.

(4) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

5. The term of office of the members of the Board and the manner of filling vacancies and the procedure to be followed in the discharge of their functions by the members shall be such, as may be prescribed.

Term of office of members.

6. The Board shall be a secretariat comprising such officers and staff who shall be entitled to such salary, allowances and other privileges, as may be prescribed.

Secretariat of the Board.

7. It shall be the duty of the Board to enunciate a national rehabilitation and welfare policy in respect of the destitute, poor and infirm citizens for their ultimate rehabilitation in life.

Functions of the Board.

8. (1) It shall be duty of the Central Government to carry out the policy formulated by the Board into effect with the assistance of the State Governments and Union Territory Administrations through release of adequate funds, through Grants and materials from time to time after due appropriation made by Parliament in this regard.

Duty to carry out the policy enunciated by the Board.

(2) It shall be the duty of every State Government and Union Territory Administration to carry out the policy enunciated by the Board and feed back the experience gained during the process of implementation of the policy and to give suggestions for the improvement of policy from time to time.

9. Notwithstanding anything contained in any other law for the time being in force begging and squatting or residing on footpaths and public places shall be prohibited from such date as the Central Government may, by notification in the Official Gazette, prescribe.

Prohibition of begging and squatting on footpaths.

10. The Central Government shall establish and run such number of shelters to be called *Baseras* as may be necessary for the purposes of this Act throughout the country within a time frame as may be prescribed.

Establishment of *Baseras* or shelters.

11. In the *Baseras*, the destitute and infirm shall be provided free of cost such necessities of day-to-day life as,—

Facilities to be provided in the *Baseras* to the destitutes and infirms.

(a) food, clothing, board and lodging;

(b) medical care and treatment;

(c) educational facilities;

(d) arrangement for vocational training; and

(e) such other necessities or facilities as may be prescribed.

12. Notwithstanding anything contained in any other law for the time being in force, after the establishment of *Baseras*, all beggars, destitutes, infirm, found residing or squatting on footpath or in any public place shall be removed to the *Baseras* and provided the facilities in such manner as may be prescribed.

Removal of beggars, destitutes and infirms to *Baseras*.

13. Every poor covered under this Act shall be supplied, at an affordable and subsidized price to be determined by the Board, by the appropriate Government, per head,—

Supply of foodgrains and clothing etc. to the poor at subsidised rates.

(a) ten kilogrammes of foodgrains such as wheat, rice, coarse grains, etc. per month;

(b) two kilograms of pulses; and

(c) two sets of clothings per year.

14. The appropriate Government shall run rehabilitation centres for the destitutes, poor and infirm for their proper rehabilitation through adequate training in some trade, vocation and extend required help in cash and kind for this purpose.

Rehabilitation centres.

15. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the destitute, poor and infirm citizens.

Act to have overriding effect.

Power to
make rules.

16. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are crores of destitute, poor and infirm people in the Country. Generally, most of them are neglected by the society as a whole. Many of them are stricken with infirmity owing to old age, deformation or ailment or mental imbalance and live uncared for on footpaths or slums throughout their life and ultimately die unnoticed and unsung. They do not get food, clothing, medical care and necessities of life and many of them become beggars seeking alms for survival. They can be found in every age groups and every nook and corner of the Country. Our society owes much to itself for humane treatment to these destitutes, poor and infirm citizens.

In a welfare state like ours if proper rehabilitation programmes and chance to be in the mainstream of the population are extended to these unfortunate citizens they too can be good citizens and responsible members of the society. Vocational training coupled with helping hand, a little sympathy can go a long way to rehabilitate them in life. For this, a minor portion of revenue is required to be diverted for the uplift of these people at the Governmental levels. The Government have to ensure that these unfortunate persons are housed in a protective environment where they get the basic necessities of life. For this, a separate Ministry or department in the Government is necessary with a will and zeal for the uplift of these unfortunate citizens.

Hence this Bill.

PRABHA THAKUR

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of National Rehabilitation and Welfare Board for the Destitute, Poor and Infirm Citizens. Clause 6 provides for the Secretariat of the Board. Clauses 10 and 11 provides for the establishment and functions of *Baseras*. Clause 14 of the Bill provides for the Rehabilitation Centre. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

A sum of rupees one thousand crores may also involve as non recurring expenditure towards establishment of *Baseras*, Rehabilitation Centres, etc.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill gives power to the Central Government to make rules for carrying out the proposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XXVII

BILL NO. XXIX OF 2004

A Bill to provide for the prevention of forcing the girl child into prostitution by providing deterrent punishment including capital punishment for those who force the girl child into prostitution or procure the girl child for that purpose and for the rescue, and rehabilitation through education, employment, marriage, etc. of the girl child victim of prostitution and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Girl Child Victim of Prostitution (Rescue, Rehabilitation and Miscellaneous Provisions) Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “girl child” means a female human who is below the age of eighteen years;

(c) "prescribed" means prescribed by rules made under this Act;

45 of 1860.
104 of 1956. (d) Words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 shall have the meaning respectively assigned to them in those Acts.

3. (1) Notwithstanding anything contained in any other law for the time being in force abetting, inducing, forcing, indulging a girl child into prostitution and hiring or obtaining possession of a girl child prostitute is hereby prohibited. Prohibition of girl child Prostitution.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

45 of 1860.
104 of 1956. 4. Notwithstanding anything contained in the Indian Penal Code or the Immoral Traffic (Prevention) Act, 1956 or any other law for the time being in force, whoever,— Penalty.

(i) forces a girl child into prostitution with or without her consent shall be punished with death;

(ii) abets or induces a girl child into prostitution shall be punished with imprisonment which shall not be less than five years but may extend to ten years and with fine which may extend to fifty thousand rupees;

(iii) indulges in the immoral traffic of a girl child or for any unlawful or immoral purpose shall be punishable with imprisonment which may extend to ten years and also with fine which may extend to one lakh rupees;

(iv) procures a girl child for using her as a prostitute shall be punishable with life imprisonment and also with fine which may extend to one lakh rupees; and

(v) hires or otherwise obtains possession of a girl child prostitute for promiscuous sexual intercourse with her shall be punished with life imprisonment and also with fine which may extend to two lakh rupees.

5. (1) All the offences under this Act shall be tried by Special Courts.

Special Courts to try the cases.

(2) The appropriate Government shall establish such number of Special Courts as it may deem necessary for the purposes of this Act.

(3) All the cases under this Act shall be tried in camera.

2 of 1974. 6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act, shall be cognizable and non-bailable.

Offences to be cognizable and non-bailable.

7. The appropriate Government shall set up such number of special cells in the Police Department, as it may deem necessary for investigation of cases under this Act.

Special cell of Police for investigation.

8. (1) The appropriate Government shall formulate, as soon as may be but not later than six months of the commencement of this Act, rescue, rehabilitation and other welfare measures for such girl child prostitutes who may be rescued from the profession or who may be rendered out of profession after the commencement of this Act.

Rescue and rehabilitation of girl child prostitutes.

(2) For the purposes of sub-section (1) the appropriate Government shall establish such number of Rehabilitation homes at conspicuous places as it may deem necessary from time to time.

(3) The Rehabilitation homes shall provide to rescued girl child prostitutes—

(a) board and lodging free of cost;

(b) free education including technical and vocational education with requisite study material;

- (c) medical care free of cost;
- (d) preference in public employment;
- (e) marriage at an appropriate time and age with due care; and
- (f) such other facilities as may be prescribed.

Central Government to provide requisite funds.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate and requisite funds for carrying out the purposes of this Act.

Act to have overriding effect.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this act.

STATEMENT OF OBJECTS AND REASONS

Child prostitution is very rampant in some countries and the girl child prostitutes are preferred by the unscrupulous tourists for promiscuous sex, fun and enjoyment. The rich and neo rich clients with lax morals prefer girl child prostitutes and pay hefty sums for hiring them. This is forcing the poor, innocent and adolescent girls into prostitution by professional pimps, organized criminal gangs, antisocial elements, brothel or Kotha owners, call girl racketeers and other unscrupulous persons. In majority of the cases the hapless girls are lured into this profession with the promise of a decent and comfortable lifestyle through good employment. Many hapless minor girls are kidnapped by the professionals and forced into the flesh trade. Similarly, girls are procured from the unsuspecting poor parents and forced into prostitution. For this, girls of poor families in villages are targeted. People even go to the extent of marrying the hapless girls and then forcing them into the flesh trade. The girl child prostitutes also become vulnerable to deadly AIDS and other sexually transmitted diseases.

It has become necessary to save the hapless innocent girl child from forced prostitution by providing deterrent punishment for those culprits who force them into prostitution. They should be given capital punishment. Similar deterrence has to be provided for the clients of girl child prostitutes by providing life imprisonment for them. Apart from deterrent punishment the girl child prostitutes need to be rescued and properly rehabilitated through education and employment and other means.

This Bill seeks to achieve the above objects.

PRABHA THAKUR

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the establishment of Special Courts for the purposes of the Bill. Clause 9 provides that Central Government shall for the purposes of the Bill provide adequate funds. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of two hundred crore rupees per annum as recurring expenditure.

A sum of rupees one hundred and fifty crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XXVIII

BILL NO. XXVI OF 2004

A Bill to provide for special incentives to be given to the agricultural sector and farmers of the arid, desert and drought prone areas of the country through a Development Board to be established for the purpose so as to increase the agricultural output and yield and improve the living standard of the farming community of such areas and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Agriculture in Arid, Desert and Drought prone Areas (Special Incentives) Act, 2004.

(2) It extends to such arid, desert and drought prone areas which the Central Government, by notification in the official Gazette, declare to be arid, desert and drought prone areas for the purposes of this Act.

(3) It shall come into force on such date, as the Central Government, may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "appropriate Government" means in the case of desert and drought prone areas falling within the territorial jurisdiction of a state, the Government of that State and in other cases the Central Government;

(b) "Board means" Arid, Desert and Drought prone Areas Agriculture Development Board established under section 4;

(c) "desert area" means an area having barren land with very little water and vegetation and covered with land like the areas in the States of Gujarat, Rajasthan, etc.;

(d) "drought prone area" means an area where rainfall remains scanty and much below normal and such areas declared as drought prone by the Central Government, by notification in the Official Gazette, from time to time;

(e) "farmer" means a person who cultivates land or rears livestock for his livelihood;

(f) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, as soon as may be, but within one year from the date of commencement of this Act, formulate Special Incentive Scheme for the Agriculture and for the benefit of farmers of the arid, desert and drought prone areas of the country and particularly for the States of Rajasthan and Gujarat.

Special
Incentive
Scheme.

(2) While formulating the Special Incentive Scheme under sub-section (1) the Central Government shall consult the State Governments of Rajasthan, Gujarat and such other states which the Central Government may deem necessary to be consulted for the purposes of this Act.

4. (1) The Central Government shall, for the purposes of this Act, with effect from such date, as that Government may, by notification in the Official Gazette, appoint in this behalf, establish the Arid, Desert and Drought prone Areas Agriculture Development Board.

Establishment
of Arid, Desert
and Drought
prone Areas
Agriculture
Development
Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at Jaipur in the State of Rajasthan and the Board may establish offices at such places in the country and in such manner as may be prescribed.

(4) The Board shall consist of a Chairperson, Vice-Chairperson and such other members as may be prescribed.

(5) The Board shall have such Secretariat with Officers and employees with such conditions of service as the Central Government may by notification in the Official Gazette, determine from time to time for the efficient functioning of the Board.

(6) The Board shall conduct its business in such manner as may be prescribed.

5. (1) It shall be the duty of the Board to implement the Special Incentives Scheme formulated under section 3.

Duties and
functions of
the Board.

(2) The other functions of the Board shall include:—

(i) to provide at least one Tractor to every Gram Panchayat of every village covered under this Act for tilling the land of every farmer of such villages and bear the expenditure of the same;

(ii) to provide improved seeds requiring less water to the farmers of the arid, desert and drought prone areas at affordable prices and free of cost in certain cases as may be prescribed;

(iii) to make available fertilizers and manure to the farmers at reasonable rates;

(iv) to arrange for easy crop and other loans from the Banks and institutions to the farmers;

(v) to develop such infrastructure and other conditions which may help the areas covered under this Act to develop agriculture and horticulture in such areas;

(vi) to promote milk, poultry and agricultural products cooperatives in the areas covered under this Act;

(vii) to develop marketing and other facilities in such areas to help the farmers get remunerative prices;

(viii) such other functions which may be assigned to the Board from time to time by the appropriate Government.

Irrigation and
potable water
facilities.

6. The appropriate Government shall endeavour to provide irrigation and potable water facilities to every farmer of arid, desert and drought prone areas covered under this Act through canals, handpumps, tubewells and other means as that Government may deem necessary and expedient.

Central
Government
to provide
funds to the
Board.

7. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds for carrying out the purposes of this Act and for the administrative expenses of the Board.

Annual
Report.

8. The Board shall submit an Annual Report, in such form and in such manner, as may be prescribed, of its activities of agricultural development in the arid, desert and drought prone areas of the country to the President of India who shall cause the Report to be laid before both the Houses of Parliament, as soon as may be, after it is received by him.

Power to
remove
difficulty.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions which appears to it, to be necessary or expedient for the purposes of removing the difficulty.

Savings.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are arid zones full of desert areas located in the States of Rajasthan and Gujarat. Such arid zones are also found in the States of Haryana, Punjab, Karnataka, Andhra Pradesh etc. In the arid and desert areas of Rajasthan and Gujarat generally the rainfall remains scanty, mostly much below normal, as a result the vegetation is very less in these areas. In other words, these areas are drought prone and as such agriculture is very much underdeveloped in these areas. Only coarse cereals grow there but when drought conditions prevail even coarse cereals also do not grow forcing the farmers and their families to starve. Further there are no irrigation facilities. Hence, it has become necessary to have special scheme for the development of agriculture in the arid, desert and drought prone areas of the country and to establish an autonomous Board to implement such schemes so as to improve the living conditions of farmers in such areas.

Hence this Bill.

PRABHA THAKUR

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Arid, Desert and Drought prone Areas Agriculture Development Board. Clause 5 of the Bill provides for Tractor, seeds and marketing facilities, etc. for the farmers in each Gram Panchayats of every village covered under this Act. Clause 6 provides for irrigation and Potable water facilities to the farmers covered under this Act. Clause 7 provides that Central Government shall provide adequate funds for the implementation of the purposes of Bill after enactment. The Bill if enacted will, therefore, involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crores will be involved as recurring expenditure per annum.

It may also involve a non-recurring expenditure of rupees one hundred crores from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XXIX

BILL NO. XXVII OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title
and
commence-
ment.
Amendment
of article
341.

1. (1) This Act may be called the Constitution (Amendment) Act, 2004.

(2) It shall come into force with immediate effect.

2. To clause (1) of article 341 of the Constitution, the following proviso shall be added,
namely,—

"Provided that the castes, races or tribes or parts or groups within the castes, races or tribes so specified by the President for a particular State or Union Territory shall have the same status throughout the country that is to say a Scheduled Caste of one state shall be Scheduled Caste for the entire country".

Amendment
of article
342.

3. To clause (1) of article 342 of the Constitution, the following proviso shall be added,
namely,—

(c) "Provided that the tribes or tribal communities or parts of or groups within tribes or tribal communities so specified by the President for a particular State or Union Territory shall have the same status throughout the country that is to say a Scheduled Tribe of one state shall be Scheduled Tribe for the entire country".

STATEMENT OF OBJECTS AND REASONS

About one hundred and fifty years ago the British Tea Planters brought tea workers from Orissa, undivided Bihar, undivided Madhya Pradesh, Andhra Pradesh and Santhal Pargana to Assam, West Bengal and Tripura. Most of these people belong to either Scheduled Castes or Scheduled Tribes in their state of origin. During the scheduling of communities in the list of Scheduled Castes and Scheduled Tribes, these people were enlisted either as Scheduled Castes or Scheduled Tribes not only in their states of origin but also in West Bengal and Tripura. Assam, however, remained one exception where these people were categorised as More Other Backward Classes by the so-called Area Restriction. According to social justice this kind of constitutional discrimination was not expected and due to these factors this community in Assam is suffering from their legitimate constitutional rights. In this connection, the Dhevar Commission, Pataskar Commission, Chanda Commission and Lokur Commission visited Assam to examine the socio-economic problem of these communities and found that their life-style, customs and observing religious rights etc. have not changed.

As such better late than never it is, therefor, imperative to bring an amendment to the relevant articles of the Constitution to enable these communities to enjoy the SC/ST status as their counterparts in West Bengal and Tripura are enjoying.

Hence this Bill.

SILVIUS CONDPAN

XXX

BILL NO. XLIII OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2004.

2. In article 275 of the Constitution, in clause (1) after the existing second proviso, the following proviso, shall be inserted, namely:—

“Provided also that there shall be paid out of the Consolidated Fund of India as grants-in-aid every year to the State of Himachal Pradesh such sums not less than five thousand crore rupees for all round development of hilly and remote areas in that State.”

Short title.

Amendment
of article
275.

STATEMENT OF OBJECTS AND REASONS

Himachal Pradesh, as the name suggests, is a hilly State. The State consists of many big and small hills and remote areas. More than ninety per cent of land is covered by the forests in the State most of which is under the reserved forest on which the Government of India has imposed total ban on cutting of trees which was a main source of revenue of Himachal Pradesh. The State is complying with orders of the Central Government and contributing to the environment of the country but in the process the State is suffering a loss of Rs. five thousand crore every year. For proper development of the remote and hilly regions of the State, sufficient funds are required. Many of the tribes in the remote areas of the State have not even seen and experienced any civilization.

It would, therefor, be appropriate if provisions in the Constitution is made to give grants-in-aid to Himachal Pradesh every year for allround development of hilly and remote areas in the State.

Hence this Bill.

KRIPAL PARMAR

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that an amount not less than five thousand crore of rupees shall be given to Himachal Pradesh as grants-in-aid every year for allround development of hilly and remote areas. Which would entail an outgo from the Consolidated Fund of India as recurring expenditure every year. However, no non-recurring expenditure is likely to be involved from the Consolidated Fund of India.

XXXI

BILL NO. XLV OF 2004

A Bill to provide for a ban on contesting elections by certain persons and for matters connected therewith.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Ban on Contesting Elections By Certain Persons Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “election” means election to Houses of Parliament or a State Legislature, as the case may be;

(b) “prescribed” means prescribed by rules made under this Act.

3. Notwithstanding anything contained in the Representation of the People Act, 1951, or any other law for the time being in force, no person against whom a criminal case is pending or charges framed in a suit have been filed but the case is yet to be taken up for further action, shall be eligible to contest an election.

Eligible to
contest
elections.

4. Every candidate contesting for an election shall declare in such form as may be prescribed about the details of criminal cases pending against him, if any, in any court of law, tribunal or Commission or authority having judicial powers, and also punishment or sentence undergone by him in this regard, if any.

Candidate to
declare details
of criminal
cases pending.

5. If after having been elected to either House of Parliament or a State Legislature, it has been found that a person who was found guilty in a criminal case and has undergone punishment or sentence or against whom a criminal case is pending in any court of law including in tribunal or a Commission or authority having judicial powers has contested the election by giving false declaration, he shall be disqualified for being a member of the House or the State Legislature and his seat in the House or the State Legislature shall be declared as vacant forthwith.

Disquali-
fications.

6. Any person who has been disqualified for being a member of either House of Parliament or a State Legislature under section 5, or if it is found that he has given a false declaration at the time of filing his nomination to an election, whether he has won or lost the election, shall not be eligible to contest an election for a period of ten years from the date of his disqualification and his seat shall be declared as vacant if he has won the election.

False
declaration at
the time of
filing his
nomination.

7. If, after a candidate has been elected to either House of Parliament or a State Legislature, as the case may be, charges are framed and filed in any criminal case against him whether the offence was committed before or after his election he shall forthwith intimate about the same to the Presiding Officer of the House concerned:

Charge framed
after election.

Provided that in case such person is convicted of the charges filed in the case against him, he shall be disqualified for being a member of the House forthwith and his seat shall be declared as vacant.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

In the recent elections, many candidates with criminal background have contested elections. Such a trend will not only weaken the democratic set up of the country but also pollute the political environment. These persons fight elections only on the basis of money and muscle power. They are prepared to go to any extent to win the elections. People will lose faith in democracy if such persons are elected. There is no use in crying over the criminals winning the elections. They should not be allowed, in the first instance, to contest elections. There is also a provision in the Bill for disqualification for giving false declaration about cases pending at the time of their contesting elections.

Hence this Bill.

KRIPAL PARMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules for carrying out the purpose of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XXXII

BILL NO. XLIV OF 2004

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

- | | |
|---|---------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 2004. | Short title. |
| 2. In article 58 of the Constitution, in clause (1), after the words "is a citizen of India", the words "by birth" shall be inserted. | Amendment of article 58. |
| 3. In article 66 of the Constitution, in clause (3), after the words "is a citizen of India", the words "by birth" shall be inserted. | Amendment of article 66. |
| 4. In article 84 of the Constitution, after the words "is a citizen of India", the words "by birth" shall be inserted. | Amendment of article 84. |
| 5. In article 173 of the Constitution, after the words "is a citizen of India", the words "by birth" shall be inserted. | Amendment of article 173. |

STATEMENT OF OBJECTS AND REASONS

Recently, there has been an intense debate in the country regarding citizens of foreign origin holding important offices in the country despite the fact that there is no dearth of talent in the country.

To put all such controversies at rest, it is proposed to amend the Constitution suitably to provide that only a citizen of the country by birth alone will be eligible to occupy important office in the country.

Hence this Bill.

KRIPAL PARMAR

YOGENDRA NARAIN,
Secretary General.